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## Office of the United States Trade Representative, Colombia Meets June 15th Milestones under Action Plan on Labor Rights

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# OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, COLOMBIA MEETS JUNE 15TH MILESTONES UNDER ACTION PLAN ON LABOR RIGHTS<sup>1</sup>

**Washington, D.C.**—Today, United States Trade Representative Ron Kirk announced that Colombia has met the milestones slated for completion by June 15, 2011, under the agreed Action Plan Related to Labor Rights. The Action Plan was announced by President Obama and President Santos on April 7, 2011. The Obama Administration negotiated the Action Plan to address concerns related to the U.S.-Colombia trade agreement. Under the Action Plan, the Colombian Government committed to take a series of measures, within defined time frames, to improve the protection of internationally recognized labor rights, the prevention of violence against labor leaders, and the prosecution of the perpetrators of such violence. The Obama Administration has made clear that Colombia must successfully meet the key milestones in the Action Plan for the trade agreement to advance to the next stage.

**“President Obama pledged to change U.S. trade policy by advancing trade agreements that offer a level playing field for American workers and that reflect American values on core issues like labor rights. He did that with the U.S.-South Korea trade agreement by negotiating further steps to open South Korea’s auto market. He did that with the U.S.-Panama trade agreement by negotiating additional progress on labor rights and tax transparency. And he did that with the U.S.-Colombia trade agreement through the negotiation of the Action Plan Related to Labor Rights,”** said Ambassador Kirk. **“The Action Plan is designed to significantly increase labor protections in Colombia, and we are pleased that Colombia is meeting its commitments. We are eager to see Congress move the Colombia trade agreement forward as soon as possible along with the Korea and Panama agreements and a renewal of Trade Adjustment Assistance. It’s time to seize the market-opening, job-supporting opportunities of the pending trade agreements for American businesses, farmers, ranchers and workers.”**

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1. Press Release, Office of the U.S. Trade Rep., Colombia Meets June 15th Milestones Under Action Plan on Labor Rights (June 2011), *available at* <http://www.ustr.gov/about-us/press-office/press-releases/2011/june/colombia-meets-june-15th-milestones-under-action-plan>.

## COLOMBIAN ACTION PLAN RELATED TO LABOR RIGHTS: ACCOMPLISHMENTS TO DATE

On April 7, 2011, the U.S. and Colombian Governments announced an Action Plan in which the Colombian Government committed to a series of measures in defined time frames to improve the protection of internationally recognized labor rights, the prevention of violence against labor leaders, and the prosecution of the perpetrators of such violence. The U.S. Government has confirmed that the Colombian Government has taken the steps slated for completion by June 15, 2011, further building on work done during the initial phase of the Action Plan. These steps include the following actions:

### RECENT ACTIONS

- Secured legislation establishing a separate Labor Ministry to provide better institutional capacity to protect labor rights.
- Secured legislation to establish criminal penalties, including imprisonment, for employers that undermine the right to organize and bargain collectively or threaten workers who exercise their labor rights. The law includes a provision making it a crime to offer a collective pact to non-union workers that has superior terms to those offered to union workers.
- Accelerated the effective date from July 2013 to June 2011 of new legal provisions, including significant fines, to prohibit and sanction the misuse of cooperatives and other employment relationships that undermine workers' rights.
- Issued regulations that implement these new legal provisions on cooperatives and other employment relationships, clarify earlier cooperatives laws, and ensure coherence among these laws. The regulations include significant fines for companies that violate these laws and create tools for the Government to promote the establishment and maintenance of direct employment relationships between the user companies and affected workers. The new regulations also strengthen and clarify rules to ensure that only legitimate, autonomous, and self-directed cooperatives are allowed to operate.
- Launched an outreach program through television, newspapers and electronic media to inform workers of their labor rights, with a focus on the new laws governing cooperatives, criminal anti-union conduct, and abuse of collective pacts, and the remedies available to workers to enforce recognition of a direct employment relationship.
- Developed and began disseminating relevant Colombian laws and jurisprudence on essential public services, with guidance on how to challenge the constitutionality of any law establishing a public service as essential and therefore exempt from the right to strike.
- As part of an overall strengthening of the government protection program for threatened union activists, reduced by 75 percent the

backlog of risk assessments for those unionists applying for protection.

- Issued internal guidance to prosecutors to accelerate action on labor violence cases with leads, including a special focus on the priority labor cases identified by Colombian labor unions as well as labor violence cases from recent years.
- Developed a plan to strengthen the capacity and number of prosecutors and judicial police investigators in regional offices of the Prosecutor General.
- Developed a plan and identified budgetary needs for victims' assistance centers specializing in human rights cases, including those involving crimes against unionists.
- Included in the 2012 budget proposal the necessary financial resources to increase the Prosecutor General's Office's institutional capacity and to expand personnel and measures designed to reduce impunity and to implement the Action Plan.
- Developed a methodology for posting aggregate information about all completed criminal cases involving labor violence to date on the Prosecutor General Office's website.

#### ACTIONS ON THE APRIL 22 COMMITMENTS

- Began hiring 100 additional labor inspectors and budgeted for the hiring of 100 more labor inspectors in 2012, as part of a commitment to double the labor inspectorate by hiring 480 new labor inspectors over the next four years.
- Assigned 50 of these new labor inspectorate positions exclusively to cases involving cooperatives, and 35 of the remaining 50 new positions to address abuses of workers' rights in the priority sectors of palm oil, sugar, mines, ports, and flowers. Began conducting preventive inspections in these sectors.
- Improved systems for citizens to file labor-related complaints, including anonymously, via phone or internet.
- Launched preventive inspections to detect improper use of temporary service agencies and developed an improved enforcement regime to prevent abuses.
- Established a robust enforcement regime to detect and prosecute the use of collective pacts to undermine the right to organize and bargain collectively, including through preventive inspections of all companies in which both union-negotiated collective bargaining agreements and collective pacts are present.
- Established a series of workshops to train labor inspectors and other Ministry of Social Protection personnel in conflict resolution, with a focus on conciliation and Alternative Dispute Resolution, and launched a related outreach program to the public, employers, and workers.

- Expanded the scope of the existing government protection program for union leaders to also provide protection for labor activists (such as shop stewards and bargaining committee members), workers who are trying to organize or join a union, and former union activists who may be threatened because of their past activities on behalf of workers.
- Significantly increased the Government's funding to provide this expanded protection for labor activists.
- Strengthened the separate teacher protection program, including by eliminating disincentives for those seeking relocation due to threats, in recognition of the particular risks faced by members of the teachers' union, many of whom work in remote areas.
- Mandated early identification in all new homicide cases of whether the victim was a union member or activist.
- Developed improved training for judicial police investigators and prosecutors on cases of violence related to union activity.
- Posted sentences resulting from all labor violence cases concluded since January 1, 2011, on the Prosecutor General's website.
- Began holding meetings with labor stakeholders to reconcile the list of outstanding unionist homicide cases compiled by the National Union School with that of the Prosecutor General.

#### REMAINING ACTION PLAN COMMITMENTS

By July 15:

- Prosecutor General's Office to complete analysis of prior unionist homicide cases

By July 30:

- Santos Administration to present budget to Congress
- Completion of elimination of protection program risk assessment backlog

By Sept. 15:

- Santos Administration to present a formal request to the International Labor Organization for cooperation, advice, and technical assistance to help in the implementation of the measures outlined in the Action Plan related to labor rights, and to help foster the tripartite process
- Government to issue a decree reforming the scope and functioning of the interagency committee which reviews risk assessments

By Oct. 31:

- Final approval of the 2012 budget, which inter alia will fund 100 additional labor inspectors

By Dec. 15:

- Completion of the hiring of 100 labor inspectors
- Completion of an initial round of training inspectors in Alternative Dispute Resolution
- Fully implement the temporary service agency enforcement plan
- Complete the assignment of the remaining new judicial police investigators

By 2014:

- Hire an additional 380 labor inspectors

#### ACCOMPLISHMENTS BEYOND THE ACTION PLAN

The Colombian Government under President Santos and Vice President Angelino Garzón (a former labor leader, labor minister and Colombian Permanent Representative to the International Labor Organization) has taken numerous steps beyond those called for in the Action Plan to enhance labor rights and promote social justice in Colombia. These include:

- Championed the landmark Victims and Land Restitution Law, signed on June 10, 2011, in the presence of UN Secretary General Ban Ki-moon. The law offers reparations to potentially four million victims, including victims of state agents, and restitution of two million hectares of land over the next ten years to over 460,000 families displaced due to the internal armed conflict. The Government has budgeted \$1.5 billion for implementation over the next four years. While the legislation was pending, the Santos Administration instituted a restitution “shock plan” to restore through executive decree more than 770,000 hectares to more than 130,000 families.
- Secured tripartite agreement in support of the Action Plan and other labor matters. The tripartite agreement of May 26, 2011, the first concluded in five years, includes a consensus to request the ILO to provide cooperation, advice, and technical assistance on the implementation of the Action Plan measures.

Concluded a major agreement with the national teachers’ union addressing a broad range of Colombian educators’ concerns regarding their working conditions and quality of life.

